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The COLUMBIAN Balance, AND REPOSITORY.

"HAIL SACRED POLITY, BY FREEDOM REAR'D!
"HAIL SACRED FREEDOM, WHEN BY LAW RESTRAIN'D!"
BEATTIE.

HUDSON, (NEW-YORK) TUESDAY, MARCH 19, 1805.

Editorial.

TO THE PEOPLE.

JUDGE CHASE.

TO abler hands belongs the task of treating as it ought to be treated, that all-important tranſaction, which to a far greater degree than any thing elſe that has occurred ſince the adoption of the conſtitution, has intereſted and agitated your minds....the impeachment, trial, and acquittal of Judge Chaſe.—The *motives* which led to this perſecution—the *manner* in which it was conducted, and its final *iſſue*, are all ſubjects demanding for their diſcuſſion, talents ſuperior to thoſe we profeſs to poſſeſs. Compared to the magnitude of theſe ſubjects, we feel even leſs than *crickets at the foot of a tower*. We therefore "humble ourſelves before the undertaking," and beg leave to offer a few remarks.

It cannot be denied, that your honor, your dignity, your rights, and your liberties, were all involved in the fate of Judge Chaſe. Had the deſigns of his enemies and your enemies been crowned with ſucceſs, the laſt barrier againſt the introduction of the worſt of tyranny, (an unreſtrained democracy) would have been deſtroyed. Your greateſt men and your beſt patriots would have been ſucceſſively hunted down; and at length the only dreadful alternative would have remained, of either yielding to oppreſſion, or of ſeeking redreſs in the *laſt reſort* of an injured people. On this occaſion, then, let your party feelings be ſtifled. Let no voice, but the voice of patriotiſm be heard. Let the honeſt and candid of all parties join in mutual congratulations for their happy deliverance from impending ruin. And, henceforth, remember, that if you hope for the ſecurity of your freedom, your property and your lives, you are to look for it, not in the illuſory pretenſions of a popularity-hunting chief-magiſtrate, nor in the frothy rant of a noiſy demagogue; but in the honeſty and ſound diſcretion of your Senate, and in the undeviating integrity, the independence, and the unbending firmneſs of your judiciary.

Had the trial of Judge Chaſe terminated in his condemnation, his perſecutors, with more plauſibility, but with not an atom the more truth, might have plumed themſelves on the purity of their motives. But the reſult makes us ſuſpicious, that the motive and the meaſure were equally wicked.

Judge Chaſe was appointed to office by the Waſhington adminiſtration. He is a firm, inflexible friend to the conſtitution; and an honeſt and independent judge. It is not, therefore, ſurprizing, that he ſhould be hated by thoſe who loved not Waſhington—who are daily attempting to deſtroy the conſtitution piecemeal—and who, as if by inſtinct, tremble at the very name of an upright judge.

Judge Chaſe preſided at the court where Callender was tried, convicted and puniſhed for writing and publiſhing one of the moſt flagrant and abominable libels againſt Waſhington and Adams, and the moſt outrageous *written* attack on the conſtitution, that has ever diſgraced the American preſs. It is not ſurprizing, then, that the man who encouraged *that* Callender, by familiar letters and by large ſums of money, to publiſh *that* libel, ſhould feel inimical to the judge who preſided at his trial: Nor is it ſurprizing that the ſame hand which was extended to cheriſh the criminal, and remit his fine, ſhould be ſtretched forth to bear down and cruſh the judge who inflicted it.

Judge Chaſe alſo preſided at the trial of the inſurgent, Fries, who was convicted of treaſon and condemned to death. Thoſe who contend for "the holy right of inſurrection," will find it difficult to forgive him for this act of oppreſſion. That the perſecutors of the judge are among this number will appear from their having raiſed to one of the higheſt poſts in the government, a man who was one of the earlieſt fomentors of the inſurrection in which Fries was engaged.

All or either of theſe circumſtances might have been ſufficient and more than ſufficient, to have induced Jefferſon, Randolph, and others, to wiſh for the impeachment and removal of Judge Chaſe. But from what tranſpired in congreſs after the acquittal, we are led to believe that the promoters of the proſecution were urged to the meaſure by ſomething worſe than mere perſonal hatred towards the judge. Randolph, after being defeated in his project of impeachment, immediately propoſed an alteration of the conſtitution, to give to the preſident the power of removing the judges, on being addreſſed by two thirds of both houſes of Congreſs. Nicholſon propoſed another alteration, giving to the ſtate legiſlatures the power of recalling their ſenators whenever they pleaſe. Hence it is evident, that the main object of theſe men, is to get rid of the preſent

judges of the Supreme Court—that they may fill their places with men more ſubſervient to the will of the party now in power. This being done, Congreſs might paſs unconſtitutional laws, or in any other way oppreſs the weaker party, fearleſs of the check which the framers of the conſtitution intended the judiciary ſhould furniſh. Mr. Jefferſon, in rueful mood, has ſaid of the judges and other officers, "*few die—none reſign.*" He, therefore, ſent forth his "little David, with his ſling and ſtones," to bring them to the ground.

[TO BE CONTINUED.]

[We had almoſt forgotten to mention, that Mr. Jefferſon is again elected President, and Mr. Clinton, Vice-President; indeed we might not have thought of it now, had we not diſcovered in the papers, the ſubjoined inaugural ſpeech ſaid to have been delivered, &c. Edit. Bal.]

WASHINGTON, MARCH 4, 1805.

This day, at twelve o'clock, THOMAS JEFFERSON, Preſident of the United States, took the oath of office, and delivered the following Inaugural Speech in the Senate Chamber, in the preſence of the two Houſes, and a large concourſe of citizens.

Speech.

PROCEEDING, fellow-citizens, to that qualification which the conſtitution requires before my entrance on the charge again conferred on me, it is my duty to expreſs the deep ſenſe I entertain of this new proof of confidence from my fellow-citizens at large, and the zeal with which it inſpires me ſo to conduct myſelf as may beſt ſatisfy their juſt expectations.

On taking this ſtation on a former occaſion, I declared the principles on which I believed it my duty to adminiſter the affairs of our commonwealth. My conſcience tells me, that I have, on every occaſion, acted up to that declaration, according to its obvious import, and to the underſtanding of every candid mind.

In the tranſaction of your foreign affairs, we have endeavored to cultivate the friendſhip of all nations, and eſpecially of thoſe with which we have the moſt important relations. We have done them juſtice on all occaſions, favored where favor was lawful, and cheriſhed mutual intereſts and intercourſe on fair and equal terms. We are firmly convinced, and we act on that conviction, that with nations, as with individuals, our intereſts, ſoundly calculated, will ever be found inſeparable from our moral duties. And hiſtory bears witneſs to the fact, that a juſt nation is truſted on its word, when recourſe is had to armaments and wars to bridle others.

At home, fellow-citizens, you beſt know whether we have done well or ill. The ſuppreſſion of unneceſſary offices, of uſeleſs eſtabliſhments and expences, enabled us to diſcontinue our internal taxes. Theſe, covering our land with officers, and opening our doors to their intruſion, and already begun that proceſs of domiciliary vexation, which, once entered, is ſcarcely to be reſtrained from reaching ſucceſſively every article of produce and of property. If, among theſe taxes, ſome minor ones fell, which had not been inconvenient it was becauſe their amount would not have paid the officers who collected them, and becauſe, if they had any merit, the State authorities might adopt them, inſtead of others leſs approved.

The remaining revenue on the conſumption of foreign articles, is paid chiefly by thoſe who can afford to add foreign luxuries to domeſtic comforts. Being collected on our ſea-board and frontiers only, and incorporated with the tranſactions of our mercantile citizens, it may be the pleaſure and the pride of an American to aſk what farmer, what mechanic, what laborer ever ſees a tax gatherer in the United States? Theſe contributions enable us to ſupport the current expences of the government, to fulfil contracts with foreign nations, to extinguiſh the native right of ſoil within our limits, to extend thoſe limits, and to apply ſuch a ſurplus to our public debts, as places at a ſhort day their final redemption, and that redemption once effected, the revenue thereby liberated, may be a juſt repartition among the States, and a correſpondent amendment of the conſtitution be applied, *in time of peace*, to rivers, canals, roads, arts, manufactures, education, and other great objects within each State: *In time of war*, if injuſtice by ourſelves or others muſt ſometimes produce war, increaſed as the ſame revenue will be by increaſed population and conſumption, and aided by other reſources reſerved for that criſis, it may meet within the year all the expences of the year, without encroaching on the rights of future generations, by burthening them with the debts of the paſt. War will then be but a ſuſpenſion of uſeful works, and a return to the progreſs of improvement.

I have ſaid, fellow-citizens, that the income reſerved had enabled us to extend our limits; but that extenſion may poſſibly pay for itſelf before we are called on, and in the mean time may keep down the accruing intereſt. In all events it will replace the advances we ſhall have made. I know that the acquiſition of Louiſiana has been diſapproved by ſome from a candid apprehenſion that the enlargement of our territory may endanger its union. But who can limit the extent to which the federative principle may operate effectively? The larger our aſſociation the leſs will it be ſhaken by local paſſions. And in any view, is it not better that the oppoſite bank of the Miſſiſippi ſhould be ſettled by our own brethren and children, than by ſtrangers of another family? With which ſhall we be moſt likely to live in harmony and friendly intercourſe?

In matters of religion I have conſidered that its free exerciſe is placed by the conſtitution, independent of the powers of the general government. I have therefore undertaken, on no occaſion, to preſcribe the religious exerciſe ſuited to it: but have left them, as the conſtitution found them, under the direction and diſcipline of the State or church authorities, acknowledged by the ſeveral religious ſocieties.

The aboriginal inhabitants of theſe countries, I have regarded with the commiſeration their hiſtory inſpires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no deſire but to be undiſturbed, the ſtream of overflowing population from other regions directed itſelf on theſe ſhores. Without power to divert, or habits to contend againſt it, they have been overwhelmed by the current, or driven before it. Now reduced within limits too narrow for the hunter ſtate, humanity enjoins us to teach them agriculture and the domeſtic arts; to encourage them to that induſtry which alone can enable them to maintain their place in exiſtence, and to prepare them in time for that ſtate of ſociety, which, to bodily comforts, adds the improvement of the mind and morals. We have, therefore, liberally furniſhed them with the implements of huſbandry and houſehold uſe: we have placed among them inſtructors in the arts of firſt neceſſity; and they are covered with the ægis of the law againſt aggreſſors from among ourſelves.

But the endeavors to enlighten them on the fate which awaits their preſent courſe of life, to induce them to exerciſe their reaſon, follow its dictates, and change their purſuits with the change of circumſtances, have powerful obſtacles to encounter. They are combatted by the habits of their bodies, prejudices of their minds, ignorance, pride, and the influence of intereſted and crafty individuals among them, who feel themſelves ſomething in the preſent order of things, and fear to become nothing in any other. Theſe perſons inculcate a ſanctimonious reverence for the cuſtoms of their anceſtors; that whatſoever they did muſt be done through all time; that reaſon is a falſe guide, and to advance

under its counsel in their physical, moral or political condition, is perilous innovation; that their duty is to remain as their Creator made them, ignorance being safety, and knowledge full of danger. In short, my friends, among them also is seen the action and counter-action of good sense and of bigotry. They too have their anti-philosophists, who find an interest in keeping things in their present state; who dread reformation, and exert all their faculties to maintain the ascendency of habit over the duty of improving our reason and obeying its mandates.

In giving these outlines, I do not mean, fellow-citizens, to arrogate to myself the merits of the measures. That is due, in the first place, to the reflecting character of our citizens at large, who, by the weight of public opinion, influence and strengthen the public measures. It is due to the sound discretion with which they select from among themselves those to whom they confide the legislative duties. It is due to the zeal and wisdom of the characters thus selected, who lay the foundations of public happiness in wholesome laws, the execution of which alone remains for others: and it is due to the able and faithful auxilaries, whose patriotism has associated them with me in the executive functions.

During this course of administration, and in order to disturb it, the artillery of the press has been levelled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science, are deeply to be regretted, inasmuch as they tend to lessen its usefulness, and to sap its safety. They might, perhaps, have been corrected by the wholesome punishments reserved to, and provided by the laws of the several States against falsehood and defamation. But public duties, more urgent, press on the time of public servants, and the offenders have therefore been left to find their punishment in the public indignation.

Nor was it uninteresting to the world that an experiment should be fairly and fully made, whether freedom of discussion, unaided by power, is not sufficient for the propagation and protection of truth? Whether a government, conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation. The experiment has been tried. You have witnessed the scene. Our fellow-citizens have looked on cool and collected. They saw the latent source from which these outrages proceeded. They gathered around their public functionaries: and when the constitution called them to the decision by suffrage, they pronounced their verdict; honorable to those who had served them, and consolatory to the friend of man, who believes he may be entrusted with the control of his own affairs.

No inference is here intended that the laws provided by the States against false and defamatory publications should not be enforced. He who has time, renders a service to public morals and public tranquility, in reforming these abuses by the salutary coercions of the law. But the experiment is noted to prove, that, since truth and reason have maintained their ground against false opinions in league with false facts, the press confined to truth, needs no other legal restraint. The public judgment will correct false reasonings and opinions, on a full hearing of all parties, and no other definite line can be drawn between the inestimable liberty of the press, and its demoralising licentiousness. If there be still improprieties, which this rule would not restrain, its supplement must be sought in the censorship of public opinion.

Contemplating the union of sentiment now manifested so generally, as auguring harmony and happiness to our future course, I offer to our country sincere congratulations.—With those too, not yet rallied to the same point, the disposition to do so is gaining strength, facts are piercing through the veil drawn over them; and our doubting brethren will at length see that the mass of their fellow citizens, with whom they cannot yet resolve to act, as to principles and measures, think as they think, and desire what they desire; that our wish as well as theirs, is that the public efforts may be directed honestly to the public good, that peace be cultivated, civil and religious liberty unassailed, law and order preserved, equality of rights maintained, and that state of property equal or unequal, which results to every man from his own industry or that of his fathers. When satisfied of these views, it is not in human nature that they should not approve and support them; in the mean time let us cherish them with patient affection: let us do them justice, and more than justice, in all competitions of interest: and we need not doubt that truth, reason and their own interests will at length prevail, will gather them into the fold of their country, and will complete that entire union of opinion, which gives to a nation the blessings of harmony and the benefit of all its strength.

I shall now enter on the duties to which my fellow citizens have again called me; and shall proceed in the spirit of those principles which they have approved. *I* fear not that any motives of interest may lead me astray: *I* am sensible of no passion which could seduce me knowingly from the path of justice; but the weaknesses of human nature and the limits of my own understanding will produce errors of judgment sometimes injurious to your interests, I shall need therefore all the indulgence I have heretofore experienced; the want of it will certainly not lessen with encreasing years. I shall need too the favor of that being in whose hands we are, who led our fathers, as Israel of old, from their native land, and planted them in a country flowing with all the necessaries and comforts of life; who has covered our infancy with his providence, and our riper years with his wisdom and power; and to whose goodness I ask you to join with me in supplications, that he will so enlighten the minds of your servants, guide their councils and prosper their measures, that whatsoever they do, shall result in your good, and shall secure to you the peace, friendship and approbation of all nations.

TH: JEFFERSON.

March 4, 1805.

Editor's Closet.

A law has passed our legislature, entitled, *An act to amend an act, entitled, "An act for giving relief in cases of insolvency," and for other purposes.* The editor of the Poughkeepsie Journal proposes an alteration of the title, to render it more expressive of the object of the law, thus...."*An act for preventing the insolvency of* GENUINE *news-paper printers.*" The reader need only examine the law to be convinced, that this alteration would be judicious: for it merely *gives relief* to three or four starveling democratic papers. It is ordered, that all the notices of insolvent debtors shall be published in Cheetham's Am. Citizen; and that the laws of the state shall be published in the Citizen (N. Y.)....the Plebeian (Kingston)....Columbian Gazette (Utica)....and Washington Register (Salem)....at the price of two hundred dollars each, per annum. If our legislature had no other object in view, than to give the most needy of their printers a good job, they have judged well: But if they intended to publish the laws for the information of the people, they have judged ill, in designating the above-mentioned papers, as we are informed their circulation is extremely limited.

That our federal readers may not be compelled to search democratic papers for the laws, we propose to republish those of a general nature in the Balance.

The following anecdote is communicated in a letter from Washington, under date of Sunday, March 3, to Mr. Relf, Editor of the Philadelphia Gazette:—

"This morning Granger was in the House, and J. Randolph came to him, tapped him on the shoulder and addressed him nearly thus:—In your letter to Congress you say, that you have a respect for Congress *while sitting*. I shall leave town at three o'clock to-morrow ——Some time after, between 1 & 2 o'clock, while Granger was relating this circumstance to two gentlemen, a little distance from the door of the Senate, up came Randolph again, and thus addressed Granger:—Perhaps, sir, I made a mistake when I last spoke to you; I meant, that I shall leave town at 3 o'clock to-morrow evening.—He bowed, and walked off.—Granger said nothing, but laughed. Generally speaking, men who have materially lost their reputation, wish to recover it by duels."

Judge Chase.

In the Senate of the United States,
SITTING AS A
High Court of Impeachment,
ON THE
Fourth day of February, A. D. 1805.
UNITED STATES vs. SAMUEL CHASE.

The anſwer, and pleas of SAMUEL CHASE, *one of the Aſſociate Juſtices of the Supreme Court of the United States, to the articles of impeachment, exhibited againſt him in the ſaid Court, by the honorable, the Houſe of Repreſentatives of the United States, in ſupport of their impeachment, againſt him, for high crimes and miſdemeanors, ſuppoſed to have been by him committed.*

[CONTINUED.]

THE firſt queſtion, therefore, and the only remaining one propoſed to be put to this witneſs, ſtood alone, and an affirmative anſwer to it, if it could have proved any thing; could have proved only a part of the charge; namely, that Mr. Adams was an ariſtocrat. But evidence to prove a part only of an entire and indiviſible charge, was inadmiſſible for the reaſons ſtated above.

If on the other hand, the phraſes in queſtion, "that Mr. Adams was an ariſtocrat," that "he had proved faithful and ſerviceable to the Britiſh intereſt," were diſtinct and diviſible, and conſtituted two diſtinct charges, which may perhaps be the proper way of conſidering them, ſtill the above mentioned queſtions were improper and inadmiſſible, in that point of view.

The firſt charge in that caſe is, that Mr. Adams "was an ariſtocrat," To be an ariſtocrat, even if any preciſe and definite meaning could be affixed to the term, is not an offence either legal or moral; conſequently, to charge a man with being an ariſtocrat is not a libel; and ſuch a charge in an indictment for a libel, is wholly immaterial. Nothing is more clear, than that immaterial matters in legal proceedings ought not to be proved, and need not be diſproved. In the next place, the term "ariſtocrat" is one of thoſe vague indefinite terms, which admit not of preciſe meaning, and are not ſuſceptible of proof. What one perſon might conſider as ariſtocracy, another would conſider as republicaniſm, and a third as democracy. If indictments could be ſupported on ſuch grounds, the guilt or innocence of the party accuſed, muſt be meaſured not by any fixed or known rule, but by the opinions which the jurors appointed to try him might happen to entertain, concerning the nature of ariſtocracy democracy or republicaniſm. And, laſtly, the queſtion itſelf was as vague, and as void of preciſe meaning, as the charge of which it was intended to furniſh the proof. The witneſs was called upon to declare "whether he had heard Mr. Adams expreſs any and what opinions, favorable to ariſtocracy or monarchy?" How was it to be determined, whether an opinion was favorable to ariſtocracy or monarchy? One man would think it favorable and another not ſo, according to the opinions which they might reſpectfully entertain, on political ſubjects. The firſt queſtion, therefore, was inconcluſive, immaterial and inadmiſſible.

The ſecond, as has been already remarked, was wholly and manifeſtly foreign from the matter in iſſue. Mr. Adams's diſlike of the funding ſyſtem, if he did in fact diſlike it, had nothing to do with his ariſtocracy or his faithfulneſs to the Britiſh intereſt. There is no pretence for ſaying, that ſuch a queſtion ought to have been admitted.

As to the third, "whether Mr. Adams had not voted againſt the ſequeſtration of Britiſh property, and the ſuſpenſion of commercial intercourſe with Great Britain," it has already been ſhown to be altogether improper; on the ground that ſuch votes, if given by Mr. Adams, were no evidence whatever of his having been "faithful and ſerviceable to the Britiſh intereſt." If he had been ſo, provided it were, in his opinion, at the ſame time uſeful to the intereſts of his own country, which it well might be, and the contrary of which is not alledged by this part of the publication, taken ſeparately, it was no offence of any kind; and to charge him with it, was not a libel. The charge was, therefore, immaterial and futile, and no evidence, for or againſt it, could properly be received. And, finally, if the charge had been material, and the giving of theſe votes had been legal evidence to prove it, that fact was on record in the journals of the Senate, and might have been proved by that record, or an official copy of it. As this evidence was the higheſt of which the caſe admitted, no inferior evidence of it, ſuch as oral proof is well known to be, could be admitted.

For theſe reaſons this reſpondent did concur with his colleague, the ſaid Cyrus Griffin, in rejecting the three above mentioned queſtions; but not any other teſtimony that the ſaid John Taylor, might have been able to give. In this he inſiſts that he acted legally and properly, according to the beſt of his ability. If he erred, it is impoſſible, for the reaſons ſtated in the beginning of his anſwer to this article, to ſuppoſe that he erred wilfully; ſince he could have had no poſſible motive for a piece of miſconduct ſo ſhameful, and at the ſame time ſo well calculated to give offence. In a point ſo liable to miſapprehenſion and miſrepreſentation, and ſo likely to be uſed as a means of exciting public odium againſt him, it is far more probable, that had he been capable of bending his opinion of the law to other motives, he would have admitted illegal teſtimony; whichtaken in its utmoſt effect, could have no tendency to thwart thoſe plans of vengeance againſt the traverſer, under the influence of which he is ſuppoſed to have acted.

If this error was an honeſt one, which as his colleague alſo fell into it, might in charity be ſuppoſed; as there is not a ſhadow of evidence to the contrary, muſt in law be preſumed; he cannot, for committing it, be convicted of any offence, much leſs a high crime and miſdemeanor, for which he muſt, on conviction be deprived of his office.

And for plea to the ſaid third article of impeachment, the ſaid Samuel Chaſe ſaith, that he is not guilty of any high crime or miſdemeanor, as in and by the ſaid third article is alledged againſt him: & this he prays may be inquired of by this honorable court in ſuch manner as law and juſtice ſhall ſeem to them to require.

The fourth article of impeachment alledges, that during the whole courſe of the trial of James Thompſon Callender, abovementioned, the conduct of this reſpondent was marked by 'manifeſt injuſtice, partiality & intemperance;' and five particular inſtances of the "injuſtice, partiality, and intemperance" are adduced.

The firſt conſiſts, "in compelling the priſoner's counſel to reduce to writing and ſubmit to the inſpection of the court, for their admiſſion or rejection, all queſtions which the ſaid counſel meant to propound to the abovementioned John Taylor, the witneſs."

This reſpondent, in anſwer to this part of the article now under conſideration, admits that the court, conſiſting of himſelf and the abovementioned Cyrus Griffin, did require the counſel for the traverſer, on the trial of James Thompſon Callender, abovementioned, to reduce to writing the queſtions which they intended to put to the ſaid witneſs. But he denies that it is more his act than the act of his colleague, who fully concurred in this meaſure. The meaſure, as he apprehends and inſiſts, was ſtrictly legal and proper; his reaſons for adopting it, and he preſumes thoſe of his colleague, he will ſubmit to this honorable court, in order to ſhow that if he, in common with his colleague, committed an error, it was an error into which the beſt and wiſeſt of men might have honeſtly fallen.

It will not be denied, and cannot be doubted, that according to our laws, evidence, whether oral or written, may be rejected and prevented from going before the jury, on various grounds.—1ſt. For incompetency: where the ſource from which the evidence is attempted to be drawn, is an improper ſource: as if a witneſs were to be called, who was infamous, or intereſted in the event of the ſuit; or a paper

should be offered in evidence, which was not between the same parties, or was not executed in the forms prescribed by law. 2d. For irrelevancy: when the evidence offered is not such, as in law will warrant the jury to infer the fact intended to be proved; or where that fact, if proved, is immaterial to the issue. For these reasons, and perhaps for others which might be specified, evidence may properly be rejected, in trials before our courts.

As little can it be doubted, that according to our laws, the court and not the jury, is the proper tribunal for deciding all questions relative to the admissibility of evidence. The effect of the evidence, when received, is to be judged of by the jury; but whether it ought to be received, must be determined by the court. This arises from the very constitution of the trial by jury; one fundamental principle of which is, that the jury must decide the case, not according to the vague notions, secret impressions, or general belief, but according to legal and proper evidence, delivered in court. So strictly is this rule observed, that if one juror have any knowledge of the matter in dispute, it may influence his own judgment, but not that of his fellow jurors, unless he state it to them on oath in open court; and nothing is more common than for our courts, after all the evidence which the party can produce has been offered and received, to tell the jury that there is no evidence to support the claim or the defence; or when proof is offered of a certain fact, to determine that such fact is not proper to be given in evidence.

Hence it results, and is every day's practice, that when a witness is produced, or a writing is offered in evidence, the opposite party having a right to object to the evidence, if he should think it improper, requires to be informed what the witness is to prove, or to see the writing, before the first is examined, or the second is read to the jury. The court has the same right, resulting necessarily from its power to decide all questions relative to the admissibility of evidence. This right our courts are in the constant habit of exercising; not only when objections are made by the parties, but when there being no objection, the court itself has reason to suspect that the testimony is improper. In most cases, but not in all, consent by the opposite party removes all objections to the admissibility of evidence, and courts sometimes infer consent from silence; but as it is their duty to take care that no improper or illegal evidence goes to the jury, unless the objection to it be removed by consent of parties; it is consequently their duty, in all cases where they see reason to suspect that the evidence offered is improper, to ascertain whether consent has been given, or whether the seeming acquiescence of the opposite party has proceeded from inattention. This is more particularly their duty in *criminal* cases where they are bound to be counsel for the government, as well as for the party accused.

It being thus the right and duty of a court before which a trial takes place, to inform itself of the nature of the evidence offered, so as to be able to judge whether such evidence be proper, it results necessarily that they have a right to require, that any question intended to be put to a witness should be reduced to writing, for that is the form in which their deliberation upon it may be most perfect, and their judgment will be most likely to be correct. In the case now under consideration, the court did exercise this right. When the testimony of John Taylor was offered, the court enquired of the traverser's counsel, what that testimony was to prove. The statement of his testimony given in answer, induced the court to suspect that it was irrelevant and inadmissible —They therefore, that they might have an opportunity for more careful and accurate consideration, called upon the counsel to state in writing, the questions intended to be put to the witness.

This is the act done by the court, but concurred in by the respondent, which has been selected and adduced, as one of the proofs and instances of "manifest injustice, partiality, and intemperance" on his part. He owes an apology to this honorable court, for having occupied so much of its time with the refutation of a charge which has no claim to serious consideration, except what it derives from the respect due to the honorable body by which it was made, and the high character of the court where it is preferred.

The next circumstance stated by the article now under consideration, as an instance and proof of "manifest injustice, partiality, and intemperance" in this respondent, is his refusal to postpone the trial of the said James Thompson Callender, "although an affidavit was regularly filed, stating the absence of material witness on behalf of the accused, and although it was manifest that with the utmost diligence the attendance of such witness could not have been procured at that term."

This respondent, in answer to this part of the charge, admits, that in the above mentioned trial, the traverser's counsel did move the court, while this respondent sat in it alone, for a continuance of the case until the next term; not merely a postponement of the trial, as the expression used in this part of the article would seem to import; and did file as the ground work of their motion, an affidavit of the traverser, a true and official copy of which marked exhibit No. 5, this respondent herewith exhibits, and begs leave to make part of this answer, but he denies that any sufficient ground for a continuance until the next term, was disclosed by this affidavit; as he trusts will clearly appear from the following facts and observations.

The trial of an indictment at the term when it is found by the grand jury, is a matter of course, which the prosecutor can claim as a right, unless legal cause can be shewn for a continuance. The prosecutor may consent to a continuance, but if he withholds his consent, the court cannot grant a continuance without a legal cause. Of the sufficiency and legality of this cause, as of every other question of law, the court must judge: but it must decide on this as on every other point, according to the fixed and known rules of law.

One of the legal grounds, and the principal one on which such a continuance may be granted, is the absence of competent and *material* witnesses, whom the party cannot produce at the present term, but has a *reasonable ground* for expecting to be able to produce at the next term. Analogous to this, is the inability to procure at the present term, legal and *material* written testimony, which the party has a *reasonable expectation* of being able to procure at the next term.

These rules are as reasonable and just in themselves, as they are essential to the due administration of justice, to the punishment of offences on the one hand, and to the protection of innocence on the other. If the continuance of a cause, on the application of the party accused, were a matter of right, it is manifest that no indictment would be brought to trial until after a delay of many months. If, on the other hand, the granting of a continuance depended not on fixed rules, but on the arbitrary will of the court, it would follow that weakness or partiality might induce a court, on some occasions, to extend a very improper indulgence to the party accused; while on others, passion or prejudice might deprive him of the necessary means, of making his defence. Hence the necessity of fixed rules, which the judges are bound to expound and apply, under the solemn sanction of their oath of office.

The true and only reason for granting a continuance is that the party accused may have the best opportunity that the laws can afford to him, of making his defence. But incompetent and immaterial witnesses, could not be examined if they were present; and consequently, their absence can deprive the party of no opportunity which the laws afford to him, of making his defence. Hence the rule, that the witness must be competent and material.

Public justice will not permit the trial of offenders to be delayed, on light and unfounded pretences. To wait for testimony which the party really wished for, but did not expect to be able to produce within some definite period, would certainly be a very light pretence; and to make him the judge, how far there was reasonable expectation of obtaining the testimony within the proper time, would put it in his power to delay the trial, on the most unfounded pretences. Hence the rule, that there must be reasonable ground of expectation, in the judgment of the court, that the testimony may be obtained within the proper time.

It is therefore a settled and most necessary rule, that every application for a continuance, on the ground of obtaining testimony, must be supported by an affidavit, disclosing sufficient matter to satisfy the court, that the testimony wanted "is competent and material," and that there is "reasonable expectation of procuring it within the time prescribed." From a comparison of the affidavit in question with the indictment, it will soon appear how far the traverser in this case, brought himself within this rule.

The absent witnesses mentioned in the affidavit, are William Gardner, of Portsmouth, in N. Hampshire; Tench Coxe, of Philadelphia, in Pennsylvania; Judge Bee, of some place in South Carolina; Timothy Pickering lately of Philadelphia, in Pennsylvania, but at what place at that time, the deponent did not know; William B. Giles, of Amelia county, in the state of Virginia; Stephens Thompson Mason, whose place of residence is not mentioned in the affidavit, but was known to be in London county, in the state of Virginia; and General Blackburn, of Bath county, in the said state. The affidavit also states, that the traverser wished to procure, as material to his defence, authentic copies of certain answers made by the President of the United States, Mr. Adams, to addresses from various persons; and also, a book entitled "an Essay on Cannon and Feudal Law," or entitled in words *to that purport*, which was ascribed to the President, and which the traverser believed to have been written by him; and also, evidence to prove that the President was in fact, the author of that book.

It is not stated, that the traverser had any reasonable ground to expect, or did expect, to procure this book or evidence, or these authentic copies, or the attendance of any one of these witnesses, at the *next* term. Nor does he attempt to shew in what manner the book, or the copies of answers to addreses, were material, so as to enable the court to form a judgment on that point. Here then, the affidavit was clearly defective. His believing the book and copies to be material, was of no weight, unless he showed to the court, sufficient grounds for entertaining the same opinion. Moreover he does not state, where he supposes that this book, and those authentic copies may be found: so as to enable the court to judge, how far a reasonable expectation of obtaining them, might be entertained. On the ground of this book and these copies, therefore, there was no pretence for a continuance. As to the witnesses, it is manifest, that, from their very distant and dispersed situation, there existed no ground of reasonable expectation, that their attendance could be procured at the next term, or at any subsequent time. Indeed, the idea of postponeing the trial of an indictment, till witnesses could be convened at Richmond, from South Carolina New Hampshire and the western extremities of Virginia, is too chimerical to be seriously entertained. Accordingly, the traverser, though in his affidavit he stated them to be material, and declared that he could not procure their attendance at that term, could not venture to declare on oath, that he expected to procure it at the next, or any other time; much less that he had any reasonable ground for such expectation. On this ground, therefore, the affidavit was clearly insufficient; and it was consequently the duty of the court to reject such application.

But the testimony of these witnesses, as stated in the affidavit, was wholly immaterial; and therefore their absence was no ground for a continuance, had there been reasonable ground for expecting their attendance at the next term.

William Gardner and Tench Coxe, were to prove, that Mr. Adams had turned them out of office, for their political opinions or conduct. This applied to that part of the publication, which constituted the matter of the third charge in the indictment, in these words, "the same system of persecution extended all over the continent. Every person holding an office, must either quit it, or think and vote exactly with Mr. Adams"—Judge Bee, was to prove, that Mr. Adams had advised and reques-

ted him by letter, in the year 1799, to deliver Thomas Nash, otherwise called Jonathan Robbins, to the British consul in Charleston. This might have had some application to the matter of the seventh charge; which alledged that "the hands of Mr. Adams, were reeking with the blood of the poor, friendless, Connecticut sailor." Timothy Pickering was to prove, that Mr. Adams, while president, and while congress was in session, was many weeks in possession of important dispatches, from the American minister in France, without communicating them to congress. This testimony was utterly immaterial; because, admitting the case to be so, Mr. Adams was not bound, in any respect, to communicate those dispatches to congress, unless in his discretion, he should think it necessary; and also, because the fact, if true, had no relation to any part of the indictment. There are, indeed, three charges, on which it might at first sight seem to have some slight bearing. These are the eighth, the words furnishing the matter of which are, "every feature in the administration of Mr. Adams, forms a distinct and additional evidence, that he was determined at all events to embroil this country with France;" the fourteenth, the words stated in which, alledge, that "by sending these ambassadors to Paris, Mr. Adams and his British faction, designed to do nothing but mischief," and the eighteenth, the manner of which states, "that in the midst of such a scene of profligacy and usury, the president persisted as long as he durst, in making his utmost efforts for provoking a French war." To no other charge in the indictment, had the evidence of Timothy Pickering, as stated in the affidavit, the remotest affinity. And surely, it will not be pretended by any man, who shall compare this evidence with the three charges abovementioned, that the fact intended to be proved by it, furnished any evidence proper to go to a jury, in support of either of those charges, that "every feature of his administration, formed a distinct and additional evidence, of a determination at all events, to embroil this country with France," that "in sending ambassadors to Paris, he intended nothing but mischief." that "in the midst of a scene of profligacy and usury, he persisted, as long as he durst, in making his utmost efforts for provoking a French war,' are charges which cannot be supported or justified, by the circumstance of his keeping in his possession, for several weeks, while congress was in session, dispatches from the American minister in France, without communicating them to congress,' which he was not bound to do, & which it was his duty not to do, as if he supposed that the communication, at an earlier period, would be injurious to the public interest. The testimony of W. B. Giles and S. T. Mason, was to prove, that Mr. Adams had uttered in their hearing, certain sentiments favorable to aristocratic or monarchical principles of Government.

This had no application except to a part of the twelfth charge: which has been already shewn to be wholly immaterial if taken separately, and wholly incapable of a separate justification, if considered as a part of an entire charge, and, lastly, it was to be proved by general Blackburn, that in his answer to an address, Mr. Adams avowed, 'that there was a party in Virginia, which deserved to be humbled into dust and ashes, before the indignaut frowns of their injured, insulted, and offended country." There were but two charges in the indictment to which this fact, if true, had the most distant resemblance. These are the fifteenth and sixteenth, the words forming the matter of which call Mr. Adams "an hoary-headed libeller of the government of Virginia, who with all the fury, but without the propriety or sublimity of Homer's Achilles, bawled out to arms, then, to arms!" and "who floating on the bladder of popularity, threatened to make Richmond the centre point of a bonfire." It would be an abuse of the patience of this honorable court, to occupy any part of its time in proving, that the fact intended to be proved by general Blackburn, could not in the slightest degree support or justify such charges as these. This is the account given of the testimony of the absent witnesses, by the affidavit filed as the ground of the motion for a continuance, From a comparison of it with the indictment, it will appear, that out of twenty charges in the indictment, there were but eight, to which any part of the testimony of these witnesses, had the most distant allusion; and that of those eight charges there are five, which the testimony, having some allusions to them, could not in the slightest degree support. Twelve charges therefore, remained without even an attempt to justify them; and seventeen were wholly destitute of any legal or sufficient justification. On these seventeen charges, therefore, the traverser must have been convicted; even if the remaining three had been completely justified by the testimony of the absent witnesses. The conviction of these seventeen charges, or even one of them, would have put it into the power of the court to fine and imprison the traverser, to the whole extent allowed by the law. If the truth of these 3 charges, admitting it to be established could have any effect in mitigating the punishment, which depended on the court and not on the jury, the court in passing sentence might make, and in this case, actually did make, the fullest abatement on that account that the testimony if adduced would warrant.

This testimony, therefore, was in every view immaterial; and had it been material, there existed no ground of reasonable expectation, that it could be obtained at the next term, or at any future term For these reasons, and not from those criminal motives, which without the least shadow of proof are ascribed to him, this respondent did over-rule and reject the motion for a continuance till the next term: as it was his duty to do, since he had no discretion in the case, but was bound by the rules of law.

But in order to afford every accommodation to the traverser and his counsel, which it was in his power to give, this respondent did offer to postpone the trial for a month or more in order to afford them full time for preparation, and for procuring such testimony as was within their reach. This indulgence they thought proper to refuse.

On Monday, the second, and Tuesday, the third day of June, 1800, when judge Griffin had taken his seat in court, and was on the bench, the counsel for the traverser, renewed their motion for a continuance, founded on the same affidavit; and after a full hearing & consideration of the argument, the court, judge Griffin concurring, over-ruled the motion, and ordered the trial to proceed.

If this decision be correct, as he believed and insists that it is, no offence could be committed by him in making or concurring in it. It was a proper and legal performance of his duty as a judge. If it be erroneous, still the error if an honest one, cannot be an offence, much less a high crime and misdemeanor; and as in his colleague it has been considered as an honest error, he confidently trusts it will be considered so in him also.

To the third charge adduced in support of the article now under consideration, the charge of using "unusual, rude, and contemptuous expressions, towards the prisoner's counsel," and of "falsely insinuating, that they wished to excite the public fears and indignation, and to produce that insubordination to law, to which the conduct of this respondent did manifestly tend," he cannot answer otherwise than by a general denial. A charge so vague, admits not of precise or particular refutation. He denies that there was any thing unusual or intentionally rude or contemptuous in his conduct or his expressions towards the prisoner's counsel; that he made any false insinuation, whatever against them, or that his own conduct tended in any manner to produce insubordination to law. On the contrary, it was his wish and intention, to treat the counsel with the respect due to their situations and functions, and with the decorum due to his own character. He thought it his duty to restrain such of their attempts as he considered improper, and to over-rule motions made by them, which he considered as unfounded in law, but this it was his wish to accomplish in the manner least likely to offend, from which every consideration concurred in dissuading him. He did indeed think at that time, and still remains under the impression, that the conduct of the traverser's counsel, whether from intention or not he will not undertake to say, was disrespectful, irritating, and highly incorrect. That conduct which he viewed in this light, might have produced some irritation in a temper natually quick and warm, and that this irritation might, notwithstanding his endeavors to suppress it, have appeared in his manner and in his expressions, he thinks not improbable; for he has had occasions of feeling and lamenting the want of sufficient caution and self-command, in things of this nature. But he confidently affirms, that his conduct in this particular was free from intentional impropriety; and this respondent denies, that any part of his conduct was such as ought to have induced the traverser's counsel to "abandon the cause of their client," nor does he believe that any such cause did induce them to take that step. On the contrary, he believes that it was taken by them under the influence of passion or for some motive into which this respondent forbears at this time to enquire. And this respondent admits, that the said traverser was convicted and condemned to fine and imprisonment, but not by reason of the abandonment of his defence by his counsel; but because the charges against him were clearly proved, and no defence was made or attempted against far the greater number of them.

The fourth charge in support of this article, attributes to this respondent, "repeated and vexatious interruptions of the said counsel, which at length induced them to abandon the cause of their client, who was therefore convicted, and condemned to fine and imprisonment." To this charge also, it is impossible to give any other answer but a general denial. He avers that he never interrupted the traverser's counsel vexatiously, or except when he considered it his duty to do so. It cannot be denied that courts have power to interrupt counsel, when in their opinion the correctness of proceeding requires it. In this, as in every thing else, they may err. They may sometimes act under the influence of momentary passion or irritation, to which they in common with other men, are liable. But unless their conduct in such cases, though improper or ill-judged, be clearly shewn to proceed, not from human infirmity, but from improper motives, it cannot be imputed to them as an offence, much less as a crime or misdemeanor.

Lastly, this respondent is charged under this article, with an "indecent solicitude, manifested by him, for the conviction of the accused, unbecoming even a public prosecutor, but highly disgraceful to the character of a judge, as it was subversive of justice." This is another charge of which it is impossible to give a precise refutation, and for a general denial of which, this respondent must therefore confine himself. He denies that he felt any solicitude whatever, for the conviction of the traverser; other than the general wish natural to every friend of truth, decorum and virtue, that persons guilty of such offences, as that of which the traverser stood indicted, should be brought to punishment, for the sake of example. He has no hesitation to acknowledge, that his indignation was strongly excited, by the attrocious and profligate libel which the traverser was charged with having written and published. This indignation, he believes, was felt by every honorable and virtuous man in the community, of every party, who had read the book in question, or become acquainted with its contents. How properly it was felt, will appear from the book itself, which this respondent has ready to produce to this honorable court; from the parts of it incorporated into the indictment now under consideration; and from some further extracts contained in the paper marked exhibit No. 6, which this respondent prays leave to make part of this his answer. He admits, and it can never be a subject of self-reproach or a cause of regret, that he partook largely in this general indignation, but he denies that it in any manner influenced his conduct towards the traverser which was regulated by a conscientious regard to his duty and the laws. He moreover contends, that a solicitude to procure the conviction of the traverser, however unbecomming his character as a judge, would not have been an offence, had he felt it: unless it had given rise to misconduct on his part. Intentions and feelings, unless accompanied by actions, do not constitute crimes in this country; where the guilt or innocence of men is not judged of by their wishes and solicitudes, but by their conduct and its motives. And this respondent thinks it his duty, on this occasion, to enter his solemn protest against the introduction in this country, of those arbitrary

principles, at once the offspring and the inſtruments of deſpotiſm, which would make 'high crimes and miſdemeanors' to conſiſt in "rude and contemptuous expreſſions," in "vexatious interruptions of counſel," and in the manifeſtation of "indecent ſolicitude" for the conviction of a moſt notorious offender. Such conduct is no doubt, improper and unbecoming in any perſon, and much more ſo in a judge: but it is too vague, too uncertain and too ſuſceptible of forced interpretations, according to the impulſe of paſſion or the views of policy, to be admitted into the claſs of puniſhable offences, under a ſyſtem of law whoſe certainty and preciſion in the definition of crimes, is its greateſt glory, and the greateſt privilege of thoſe who live under its ſway.

[TO BE CONTINUED.]

Be it our weekly task,
To note the paſſing tidings of the times.

Hudſon, *March* 19.

APPOINTMENTS.

Robert Smith, of Baltimore, late Sec'ry of the Navy, is appointed Attorney-General of the United States, in the room of Levi Lincoln, reſigned...And Jacob Crowninſhield, of Salem, is appointed Secretary of the Navy in the room of Robert Smith.

Hon. Daniel D. Tomkins, one of the Judges of our Supreme Court, is appointed Diſtrict Judge for this State, in the room of Judge Hobart, deceaſed.

It is ſtated, that flour has been ſold at the Havannah, at the enormous price of 40 dollars per barrel.

On Saturday, March 2d, Mr. Burr took leave of the Senate in a Speech of about half an hour.

The bill for granting to Aaron Burr, the privilege of franking his letters during his life, is poſtponed till next ſeſſion.

Congreſs ſat the whole of Sunday, March 3d, it being the laſt day of the ſeſſion.

For the following particulars we are indebted to Relf's Philadelphia Gazette, and the Gazette of the United States:—

The Senate almoſt unanimouſly voted to pay Judge Chaſe's witneſſes. When the ſubject came before the houſe on Saturday evening, J. Randolph, in a ſhort ſpeech of rank venom towards Judge Chaſe, ſaid, among other things, that he had eſcaped by a mere ſqueak; that he looked upon him in the light of an acquitted felon. A large majority of the houſe voted not to pay the judge's witneſſes, although they they had paſſed a bill for compenſating the witneſſes againſt him. A committee of conference was appointed by the two houſes. They met and diſagreed. The Senate unanimouſly agreed to adhere to their reſolution of paying the witneſſes of the judge; and the houſe alſo agreed to adhere to their reſolution of not paying. Conſequently, no proviſion was made for compenſating *any* of the witneſſes.

Immediately after the verdict of the Senate, acquitting Judge Chaſe, Randolph came into the Houſe, and moved for an amendment to the conſtitution, viz. that the judges ſhould be liable to be removed from office by the Preſident at the requeſt of two thirds of the Legiſlature. Nicholſon moved another alteration, viz. that the ſtate legiſlatures ſhould have power to recal their Senators to Congreſs whenever they pleaſed.—Mr. Elliot obſerved that they might as well go directly to the object, and reſolve, that it is expedient to aboliſh the Conſtitution of the United States, and ſet the public bark afloat on the tempeſtuous ocean of anarchy. The reſolutions were poſtponed to the next ſeſſion, when Nicholſon pledged himſelf to proſecute them.

Our letters from the Mediterranean enable us to place before our readers further details of such heroic deeds, on the part of our gallant Officers, Seamen and Marines, as muſt impreſs all nations with reſpect for the American Flag, and cannot fail to excite the emulation of our gallant youth.

"In the attack upon the enemy's ſhipping and batteries in the harbour of Tripoli, on the third of Auguſt, ſix American gun boats and two bombards, were placed in two diviſions, commanded by the brave captains Decatur and Somers. The enemy's gun boats were alſo in two diviſions. When the American ſignal to advance was made, captain Decatur led in with the boat which he commanded, and was followed by the boats commanded by Lieutenant Decatur, Trippe, and Bainbridge—his intention was to have brought the weather diviſion of the enemy to a cloſe and deciſive action, but finding they declined the conteſt, and being unable to fetch them, he bore up for their leward diviſion, of ſeventeen gun boats, moored in a cloſe line abreaſt under the batteries, advancing, & firing, under a preſs of ſail—at this time he ſuſtained a heavy fire of round and grape ſhot, from the ſhipping and batteries by which the boat commanded by captain Bainbridge, was rendered unmanageable; notwithſtanding this accident, Capt. Decatur, having complete confidence in his ſeconds, Lieteuants Decatur, and Trippe, paſſed with his three boats through the enemy's line, cutting off their five weathermoſt boats—and, boarding the firſt himſelf, his example was followed by his Brother, and Lieutenant Trippe, each, of whom, in the handſomeſt manner, laid the enemy on board, and compelled his antagoniſt to ſurrender. The boat boarded by Capt. Decatur was obſtinately defended, and was not ſurrendered until ſeven-eighths of her crew were killed or wounded. Lieut. Trippe, after a ſevere and bloody conflict in which eleven Americans ſubdued thirty-ſix Turks, killing fourteen and wounding ſeven, ſucceeded and brought off his prize. The brave and lamented Lieutenant Decatur, when taking poſſeſſion of his vanquiſhed foe, was treacherouſly ſhot by the Turkiſh Captain, who effected his eſcape.

"Having manned his prize, and left with only 9 Americans, beſides himſelf, the heroic Capt. Decatur determined to board another boat, in which he ſucceeded.—Being only 10 Americans, to 24 Turks, a ſcene of combat enſued, of the moſt daring effort on the one part, and determined reſiſtance on the other.

"Prepared to receive the aſſailants with ſabres, piſtols and boarding pikes, the Turks made a powerful defence, and were not ſubdued until 21 of them had fallen.

"Capt. Decatur was at different times moſt critically circumſtanced.—At one time while engaged with the Tripolitan Captain in front a Turk in his rear aimed a blow with a ſabre, which one of his ſeamen moſt nobly interpoſed to receive, and which ſplit his ſkull. In a ſubſequent encounter he was engaged by a Turk with a boarding pike, which he endeavored to cut off with his ſword, when the blade broke, and left only the hilt in his hand—and he then received a thruſt in the arm. Not having time to draw a piſtol before the thruſt would be repeated; he cloſed with his antagoniſt who, being the ſtrongeſt man, threw him—but in falling his activity placed him above his enemy, who then drew his dagger, as captain Decatur did his piſtol, which prevailed—the ſpot where Capt Decatur was engaged then became the ſcene of action—the Turks advanced to the relief of their comrade, and Decatur's ſergeant and 4 marines, with fixed bayonets, flew to his reſcue. Victory, after a bloody conflict, decided for the generous few, and 3 ſurviving Turks ſurrendered

"The brave and much regretted Somers, having done every thing which ſkill and intrepidity could, on this occaſion, effect, afterwards ſolicited and obtained the command of a fire-ſhip, called an Infernal, which Commodore Preble ſent into the harbor of Tripoli—after carrying her within 20 yards of the Bashaw's Caſtle, ſhe was boarded by 2 gunboats, each carrying 100 men. Capt. Somers having but 8 men to defend his veſſel, and preferring a glorious death to ignominious ſlavery, fired the train, and with his gallant comrades, Wadſworth and Iſrael, and two hundred of the enemy, periſhed in the exploſion.' *Political Regiſter.*

The Knot.

MARRIED,

At Lee, Maſſachuſetts, Capt. WILLIAM E. SHERMAN, of Philadelphia, to Miſs SALLY DILLINGHAM, daughter of Major Nathan Dillingham, of Lee.

Prices Current
AT HUDSON,

[CORRECTED WEEKLY.]

Saturday, March 16, 1805.

	D.	C.
Wheat	2	31
Rye	1	19
Corn	1	00
Oats		50
Butter		21
Cheeſe		09
Lard		12
Tallow		16
Bees Wax		28

Wreath.

FOR THE BALANCE.

DEVOUT LINES.

Written under severe affliction in 1766.

YEARS follow years, how swift they move,
And pass into eternity!
O, may the next succeeding prove
A blissful jubilee to me!

Years, months and days, ye cannot go
Too fast for one like me distress'd;
Your swiftest flight is much too slow
For souls that long to be releas'd.

Time's shortest period proves to me
Long tedious years of pain and grief;
I would the last grand period see,
Or find in death a sweet relief.

Must I forever live distress'd?
From youth to age in sorrow pine?
And shall I know no point of rest?
Must pain and anguish still be mine?

Hourly my flesh and strength decays;
Distempers urge me to the tomb;
Must I be dying all my days,
Yet life's sweet period never come?

Night spreads her curtain round my bed;
But gentle sleep forsakes my eyes;
Restless, I turn my weary head,
And wish to see the morning rise.

I turn, and turn, and turn again—
Gaze at the windows, wish for day;
Think o'er the dire effect of sin,
And weep the silent hours away.

The morning comes with cheerful light;
But light offends and pains my eyes;
Weary of day, I wish for night,
To see the evening shadows rise.

From night to night, from day to day,
In pain and anguish thus I spend
The tedious months and years away,
And pray and wish th' expected end.

I pray, and wish, and sigh, and groan,
In secret pining o'er my grief;
By friends encompass'd, yet alone,
Helpless, and far from all relief.

Perplexing doubts distract my head—
Distressing fears o'erwhelm my breast;
Soft ease and peace forsake my bed:
Thus restless, anxious and distress'd.

My life's one long, dark, gloomy scene
Of sin and sorrow, pain and care;
Tempests and storms without, within—
Oh, for a moment bright and fair!

Oh thou prime minister of heaven!
Supreme controller of our fate!
Into whose hands all power is given—
With sweet compassion view my state.

Open the iron gates of death,
And grant my soul a passage free;
Grant me in peace to yield my breath,
And take my spirit up to thee.

To thee, where endless pleasures reign—
Pleasures, unstain'd with sense or sin;
Unmix'd with sorrow, care or pain—
That glorious prize the virtuous win.—

Tir'd with this wretched load of clay,
My spirit longs to be undress'd;—
Weary of life's long tedious day,
She fain would enter to her rest.—

With pitying eyes behold my grief;
That rest which thou hast promis'd, give:
O, hear and grant me quick relief,—
And let me die that I may live.

That I may live to thee alone
A life of liberty and love,
With saints and angels round thy throne,
And aid the blissful song above.

Divergity.

The French Imperial Mantle.

THE French papers give the following description of this mantle.—It is of the finest velvet, of amaranthus colour, four ells (six yards English) long from the extremity of the train to the top of the collar; and nearly eight feet wide. The ground is *parseme* with golden bees, embroidered in bos. It is edged with a golden border, the richness of which is only equalled by the workmanship. At equal intervals in the midst of branches of laurel, in full bloom, and ears of corn, pleasingly intermixed, is a silver sun, surmounted by an oak and olive, and within the sun, the letter N. in raised gold. This mantle is entirely lined with ermine; the fur extends nearly four inches in breadth, beyond the border in gold. It has also a broad collar in the shape of a tippet, all of ermine. There is only one open sleeve, like that of a turkish dress, and upon the other an opening, which is to be closed with a clasp of diamonds. The mantle of the empress, is in every respect like that of her *august* consort, with this exception, that the suns in the border are of gold, and the letter N. of silver. [*Char. Cour.*]

The following is said to be a fragment of an Egyptian king, found at Thebes:—

"I never denied justice to the poor, for his poverty; neither pardoned the wealthy for his riches.—I never gave reward for affection, nor punishment upon passion.—I never suffered evil to escape unpunished, neither goodness unrewarded—I never denied justice to him that asked it, neither mercy to him that deserves it.—I never opened my gate to the flatterer, nor mine ear to the backbiter.—I always sought to be beloved by the good, and feared by the wicked.—I always favored the poor, that was able to do little, and God, who was able to do much, always favored me.

Buonaparte, it is said, in a London paper of the 7th of Jan. was married by the Pope to the *Imperial* Josephine, the day before the Coronation, previous to which they were united merely by civil contract.

A *canonical* wag defines the reported celebration of the nuptials of the Emperor Nap. and Imperial Josephine, by his Holiness, an *ex post facto* ceremony.

[*Philad. Gaz.*]

A fanatic preacher being requested to perform the last sad office for a dying young woman, pressed her to believe, as a preparation to the beatific state, that *flesh* and *blood* cannot inherit the kingdom of heaven. I am safe then, replied the witty patient, for I have been so long ailing, that I am nothing but *skin* and *bones*.

[*Port Folio.*]

TERMS OF THE BALANCE,

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